Neutral Citation Number: [2018] EWHC 1052 (Comm)

Case No: CL-2017-000512

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
COMMERCIAL COURT

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 4 May 2018

Before :

MR JUSTICE PHILLIPS

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Between :

(1) ATLAS POWER LIMITED **(2) HALMORE POWER GENERATION COMPANY LIMITED** **(3) THE HUB POWER COMPANY LIMITED** **(4) LIBERTY POWER TECH LIMITED** **(5) NISHAT CHUNIAN POWER LIMITED** **(6) NISHAT POWER LIMITED** **(7) ORIENT POWER COMPANY (PRIVATE) LIMITED** **(8) SAIF POWER LIMITED** **(9) SAPPHIRE ELECTRIC COMPANY LIMITED**	**Claimants**
- and –	
NATIONAL TRANSMISSION AND DESPATCH COMPANY LIMITED	**Defendant**

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Vernon Flynn QC (instructed by Freshfields Bruckhaus Deringer LLP) for the Claimants
Timothy Young QC and Marcos Dracos (instructed by Howard Kennedy LLP) for the Defendant

Hearing dates: 18, 19 December 2017

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Approved Judgment
(Public)

Mr Justice Phillips :

1. In this arbitration claim issued on 15 August 2017 the claimants ("the IPPs") seek a final anti-suit injunction to restrain the defendant ("NTDC") from challenging a Partial Final Award in an LCIA arbitration between the IPPs and NTDC by way of proceedings in Lahore, Pakistan or in any jurisdiction other than England and Wales.

2. An interim injunction was granted by Males J on 14 August 2017 on the application of the IPPs, made without notice to NTDC. The hearing before me was the return date provided for in that interim injunction and the hearing of the substantive arbitration claim.

3. The central issue between the parties is whether the courts of Pakistan have supervisory jurisdiction over the arbitration. The IPPs contend that the seat of the arbitration is London and that therefore the courts of England and Wales have exclusive supervisory jurisdiction. NTDC's contention (in its final form, as developed in oral argument) is that (i) the courts of Pakistan have at least concurrent jurisdiction, even if the seat is London, alternatively (ii) if there can be only one supervisory jurisdiction, being exclusively that of the courts of the jurisdiction where the seat of the arbitration is located, the seat must therefore be Lahore, Pakistan.

The background facts

4. The IPPs are companies registered in Pakistan, each in business as an independent power producer, generating and supplying energy solely to NTDC pursuant to a power purchasing agreement ("PPA"). NTDC, a company registered in Pakistan and owned by the Government of Pakistan, is a National Grid Company licensed by the National Electrical Power Regulatory Authority of Pakistan.

5. Each of the nine PPAs, executed between 2006 and 2008, is expressly governed by the law of Pakistan and contains, in Article XVIII, a provision for the Resolution of Disputes, providing for mutual discussions in section 18.1, expert determination in section 18.2 and for arbitration in section 18.3. The wording of section 18.3 is not identical in all of the PPAs, but it is not suggested that the minor differences are material for present purposes. It is therefore sufficient to set out the material parts of the clause to be found in the PPAs between the first claimant and NTDC:

> "*(a) Any Dispute arising out of or in connection with this Agreement that has not been resolved [under 18.1 or 18.2] shall be settled by arbitration in accordance with the London Court of International Arbitration, as in effect on the date of this Agreement (the "Rules"), by one (1) arbitrator appointed in accordance with the Rules. The arbitration proceedings shall be conducted, and the award shall be rendered, in the English language.*
>
> *....*
>
> *(c) the arbitration shall be conducted in Lahore, Pakistan; provided, however, that if the amount in Dispute is greater*

> *than 4 million Dollars ($4,000,000/-) or the amount of such Dispute together with the amount of all previous Disputes submitted for arbitration pursuant to this Section 18.3 exceeds six million Dollars ($6,000,000/-) or an issue in Dispute is (i) the legality, validity or enforceability of this Agreement or any material provision hereof, or (ii) the termination of this Agreement, then either Party may, unless otherwise agreed by the Parties, require that the arbitration be conducted in London, in which case the arbitration shall be conducted in London….Notwithstanding the foregoing, either Party may require that arbitration of any Dispute be conducted in London (or such other location outside Pakistan as agreed by the Parties), in which case the arbitration shall be conducted in London (or such other location outside Pakistan as agreed by the parties): provided, however, that if the Dispute is not of a type that could have been conducted in London (or such other location outside Pakistan agreed by the parties) in accordance with the provisions of the foregoing sentence, the Party requiring that arbitration be conducted in London (or such other location outside Pakistan agreed by the parties) shall pay all costs of arbitration as and when incurred by the other Party (including out-of-pocket costs but excluding any award made by the arbitrator) in excess of the cost that would have been otherwise incurred by such other Party had the arbitration be conducted in Lahore, Pakistan…* "

6. In or around January 2011 a dispute arose as to sums owed by NTDC to the IPPs. There were various attempts to settle the dispute, during which NTDC agreed to pay certain undisputed sums and the remaining issues were to be determined in accordance with the dispute resolution mechanisms of the PPAs. Accordingly, on 22 July 2013 the IPPs initiated an expert determination process under section 18.2 of each of the PPAs. Muhammad Sair Ali, a retired Judge of the Supreme Court of Pakistan, was appointed as the expert. The expert determination process continued for a period of two years. Between July 2014 and March 2015, while that process was still continuing, each of the IPPs filed a request for arbitration with the LCIA. In each case the LCIA, with the agreement of the parties, suspended the arbitration pending the outcome of the expert determination process.

7. On 15 August 2015 the expert determination process concluded with a finding that NTDC was liable to pay specified amounts to each of the IPPs on the basis that those amounts had been unlawfully withheld ("the Determination"). Thereafter the IPPs made demand for payment of the amounts due to them, but were informed that the Determination was to be challenged by NTDC.

8. On 28 October 2015 the Government of Pakistan, through its Private Power and Infrastructure Board ("the PPIB"), filed a suit in Lahore, seeking a declaration that the Determination was null, void and illegal. The same day the Lahore Civil Court granted an injunction restraining the IPPs and NTDC from "*acting upon, utilizing*

and claiming any rights or interests on the basis of the impugned expert determination till further order" ("the 2015 Interim Order").

9. On 2 November 2015 the IPPs' solicitors wrote to the LCIA in relation to each arbitration:

   i) asserting that the Determination had become final and binding 75 days after it had been received by the parties;

   ii) requesting the resumption of the arbitration;

   iii) exercising its right under section 18.3(c) of the PPAs to designate London as the seat of the arbitration on the ground that the amount in dispute exceeded $4,000,000;

   iv) requesting the appointment of a sole arbitrator;

   v) amending its claim to seek a declaration that the Determination was final and binding and ordering NTDC to pay the amount specified in the Determination with interest and costs; and

   vi) requesting that, once the stay was lifted, the nine arbitrations be consolidated.

10. On 3 November 2015 the LCIA confirmed that the stays on the arbitrations had been lifted and directed NTDC to serve Responses to the Requests for Arbitration.

11. On 15 November 2015 the Government of Pakistan filed a contempt application before the Lahore Civil Court, contending that the IPPs were in breach of the 2015 Interim Order by seeking to resume the arbitrations.

12. On 30 November 2015 NTDC filed its Responses in the arbitrations, asserting the following:

   i) that the IPPs were not entitled to select London as the seat of the arbitrations, the purpose of section 18.3(c) being to determine the "venue" for the hearing of the arbitration, not its seat. NTDC asserted that the seat was Lahore, Pakistan; and

   ii) that, in view of the injunction granted by the Lahore Civil Court, the arbitrations should be stayed.

13. On 31 December 2015 the IPPs' solicitors wrote to the LCIA setting out the IPPs' case that they had been entitled to select London as the seat of the arbitrations under the terms of the PPAs, but also pointing out that, if NTDC's interpretation of section 18.3(c) was correct, the parties had not agreed any seat. If that was the case, article 16(1) of the LCIA Rules 1998 ("the 1998 Rules") would determine the seat. That article provides as follows:

> "*16.1 The parties may agree in writing the seat (or legal place) of their arbitration. Failing such a choice, the seat of the arbitration shall be London, unless and until the LCIA*

> *Court determines, in view of the circumstances, and after having given the parties an opportunity to make written comments, that another seat is more appropriate.*"

14. On 6 January 2015 the LCIA notified the parties that the LCIA Court had determined, pursuant to article 16.1, that London should be the seat of the arbitrations. Two days later the LCIA informed the parties that Professor Douglas Jones had been appointed the sole arbitrator for each of the arbitrations ("the Arbitrator"). On 27 January 2015 the Arbitrator made an order, by consent, consolidating the nine arbitrations into one arbitration ("the Arbitration").

15. On 8 July 2016 the Arbitrator issued a ruling on NTDC's stay application, in which he confirmed that the seat of the Arbitration was London. NTDC's application for a stay was refused. After hearing further from the parties, the Arbitrator directed the hearing and determination of preliminary issues, including whether the Determination had become final and binding, whether NTDC should provide security for the IPPs' claims and whether the PPAs provide a jurisdictional basis for arbitrations to proceed under the LCIA Rules with London as their seat. The parties duly filed pleadings and a first round of submissions for the hearing for the preliminary issues, although NTDC's submissions were stated to be "notional" or draft submissions. The IPPs filed reply submissions, but NTDC stated it was unable to do so.

16. On 27 October 2016, on the application of the Government of Pakistan in further proceedings, the Lahore Civil Court made an order restraining the IPPs and NTDC from participating in the Arbitration till further order ("the 2016 Interim Order"). On 27 December 2016, on the application of the IPPs, the District Court in Lahore suspended the effect of the 2016 Interim Order.

17. On 31 January 2017, on the PPIB's application, the operation of the 2015 Interim Order was extended. The IPPs' appeal against that extension was dismissed on 11 March 2017.

18. On 25 March 2017 the IPPs appeal against the 2016 Interim Order was dismissed and the suspension of that Order was lifted. On 30 March 2017 an order was made permitting the IPPs to file their submissions on the preliminary issues in the Arbitration.

19. On 18 April 2017 the Lahore Civil Court (a) granted a temporary injunction against the IPPs and NTDC and confirmed the 2015 Interim Order, but also (b) granted an order recording that the IPPs and NTDC could resolve their dispute through any of the modes mentioned in Article 18 of the PPAs other than by impleading the Government of Pakistan or by relying on the Determination.

20. The hearing of the preliminary issues took place on 19 April 2017. NTDC, represented by the same counsel who appeared in the present proceedings, informed the Arbitrator that it considered it was prevented from participating in the hearing due to interim orders granted in Lahore. The Arbitrator nonetheless ruled that it was appropriate to proceed. However, in view of NTDC's position (and with the consent of the IPPs), the Arbitrator determined to do so on the basis of the written

submissions filed by the parties and without hearing oral submissions from either side.

21. The Partial Final Award was issued on 8 June 2017. The Arbitrator ruled (among other matters):

    i) that section 18.3 of the PPAs granted the parties a conditional option to vary the seat of an arbitration and to fix it somewhere other than Lahore. That conditional option was exercised by the IPPs. But, in any event, the LCIA Court had the right to determine the seat and had done so in a manner that was final and binding;

    ii) that the Determination was final and binding on the IPPs and NTDC;

    iii) that NTDC should provide interim security for the IPPs' claims.

22. On 6 July 2017 NTDC commenced proceedings in this court, challenging the Partial Final Award under section 68 of the Arbitration Act 1996 ("the 1996 Act") on the grounds, among others, that the Arbitrator's decision to proceed whilst NTDC was unable to participate in the arbitration was a serious procedural irregularity which had caused it substantial injustice. The hearing of that claim commenced before me immediately following argument on the anti-suit proceedings, but was discontinued by NTDC before Mr Dracos, junior counsel for NTDC, had concluded oral submissions on NTDC's behalf.

23. On 7 July 2017 NTDC also filed a claim in the Court of the Senior Civil Judge in Lahore, seeking an order declaring the Partial Final Award to be null and void and setting it aside. On 10 July 2017 the Lahore Civil Court made an order suspending the operation of the Partial Final Award pending a final decision in the challenge proceedings filed in Pakistan, but that order was itself subsequently suspended. The proceedings are still pending.

24. A final award in the proceedings ("the Final Award") has since been delivered by the Arbitrator. NTDC commenced proceedings under section 68 of the 1996 Act challenging the Final Award, but those proceedings have also been discontinued.

The IPPs' case for the grant of an anti-suit injunction

25. The IPPs' case is straightforward. The starting point is that the seat of the Arbitration is London, any issue in that regard having been determined by both the LCIA Court (a decision of which is final and binding by virtue of article 29.1 of the 1998 Rules) and by the Arbitrator. It would have been open to NTDC to mount a challenge to those determinations under section 67 (and possibly sections 68 or 69) of the 1996 Act, but no such application was made and, even now, there is no challenge to the Award on the basis that the seat was not London. Accordingly there is, the IPPs assert, no basis on which NTDC can, in these anti-suit proceedings, dispute that the seat of the Arbitration is London.

26. The IPPs next assert that, as the seat of the Arbitration is London, supervisory jurisdiction over the Arbitration is exclusively a matter for the courts of England and Wales. The IPPs rely on the Court of Appeal's decision in *C v D* [2008] 1 Lloyd's

Rep. 239, a case concerning a liability policy on the Bermuda Form, governed by the law of New York, but providing for arbitration of any disputes in London under the Arbitration Act 1950, as amended.

27. In that case the insurer, incorporated in the United States, threatened to bring proceedings in New York to challenge an arbitration award in favour of the insured, also a US corporation, but was restrained from so doing by an anti-suit injunction granted by the Commercial Court. The Court of Appeal upheld the injunction, holding that, having chosen London as the seat of the arbitration, the parties must be taken to have agreed that proceedings on the award should only be those permitted by English law. Longmore LJ (with whom the other members of the Court agreed) stated as follows:

> "*16…. In my view they must be taken to have so agreed for the reasons given by the judge. The whole purpose of the balance achieved by the Bermuda Form (English arbitration but applying New York law to issues arising under the policy) is that judicial remedies in respect of the award should be those permitted by English law and only those so permitted. Mr Hirst could not say (and did not say) that English judicial remedies for lack of jurisdiction or procedural irregularities under sections 67 and 68 of the 1996 Act were not permitted; he was reduced to saying that New York judicial remedies were <u>also</u> permitted. That, however, would be a recipe for litigation and (what is worse) confusion which cannot have been intended by the parties. No doubt New York law has its own judicial remedies for want of jurisdiction and serious irregularity but it could scarcely be supposed that a party aggrieved by one part of an award could proceed in one jurisdiction and a party aggrieved by another part of an award proceed in another jurisdiction. Similarly, in the case of a single complaint about an award, it could not be supposed that the aggrieved party could complain in one jurisdiction and the satisfied party be entitled to ask the other jurisdiction to declare its satisfaction with the award. There will be a serious risk of parties rushing to get the first judgment or of conflicting decisions which the parties cannot have contemplated.*
>
> *17. It follows from this that a choice of seat for the arbitration must be a choice of forum for remedies seeking to attack the award. As the judge said in para 27 of his judgment, as a matter of construction of the insurance contract with its reference to the English statutory law of arbitration, the parties incorporated the framework of the 1996 Act. He added that their agreement on the seat and the 'curial law' necessarily meant that any challenges to any award had to be only those permitted by that Act. In so holding he was following the decisions of Colman J in A v B… [in which] that learned judge said (para 111):*

> *"… An agreement as to the seat of an arbitration is analogous to an exclusive jurisdiction clause. Any claim for a remedy going to the existence or scope of the arbitrator's jurisdiction or as to the validity of an existing interim or final is agreed to be made only in the courts of the place designated as the seat of the arbitration"*
>
> *That is, in my view, a correct statement of the law.*"

28. The final step in the IPPs' argument is that NTDC's attempt to challenge the Partial Final Award in Lahore (or anywhere other than in this jurisdiction) is a breach of the arbitration clause (equivalent to a breach of an exclusive jurisdiction clause), which this court will restrain unless a "strong reason" is shown for not doing so: *Donohue v Armco Inc* [2002] 1 Lloyd's Rep 524. In the first instance decision in *C v D* [2007] 2 Lloyd's Rep 367, Cooke J expressed the view (from which the Court of Appeal did not dissent) that:

> "55…*Time and again the English courts have granted an injunction to restrain a clear breach of an exclusive jurisdiction agreement or a breach of an arbitration agreement whether rights of the parties are clear. In my judgment the position is even stronger where an award has already been issued and the breach of the agreement to London arbitration consists of an unlawful attempt to invalidate the award.*
>
> *56. It matters not at all whether the US courts would or would not ultimately assume jurisdiction and uphold or vacate the award or whether the US Court in question, under its own conflicts of laws rules, is bound to exercise a supervisory jurisdiction… No questions of comity arise because the mandatory exercise of jurisdiction by a foreign court, in such circumstances, only arises by reason of the breach of contract on the part of the party invoking that jurisdiction. An injunction preventing suit in that court is thus not a breach of international comity preventing a court from exercising what it regards as a mandatory jurisdiction but merely restrains a party to a contract from doing something which it has promised not to do.*"

NTDC's grounds of opposition to the grant of an anti-suit injunction

29. In both the original and revised versions of its skeleton argument, NTDC summarised the IPPs' case as depending upon the following propositions of English law:

> "*(I) As a matter of English law, if parties choose England as the seat of an arbitration, it is part of their arbitration agreement that any judicial challenge to an award in that arbitration must be made in*

England under the provisions of the Arbitration Act 1996.

(II) It is a breach of the arbitration agreement for a party to commence proceedings to challenge such an award anywhere save England under the Arbitration Act.

(III) Such a breach is remediable by anti-suit injunction in order (and when it is necessary) to protect the rights of the successful party to the arbitration.

(IV) The normal principles of injunctive relief required injunction to be granted.

(V) The seat of the present arbitrations is England, thus making it a breach of the arbitration agreement in the PPA's for NTDC to commence and continue the Pakistan proceedings, which are therefore vexatious and oppressive require injunctive relief is sought and granted."

30. NTDC's skeleton argument then confirmed, on the basis that the decision of the Court of Appeal in *C v D* was correctly decided (as to which NTDC reserved its position), that it accepted that propositions (I) to (IV) were correct and applicable. The critical issue, it explained, was whether the parties had validly and lawfully chosen London as the seat of the arbitration.

31. However, Mr Young QC made clear in the course of oral argument on behalf of NTDC that his primary case was not a challenge to London as the seat of the Arbitration. He went so far as to say that "*I am perfectly happy to proceed on the basis that it had been decided by the LCIA or by the arbitrator that the seat is England*", further adding that he was "*quite happy with validly decided*".

32. NTDC's case, as explained by Mr Young, was that:

i) the reasoning of the Court of Appeal in *C v D* was based on the presumed intention of the parties in choosing London as the seat of their arbitration in a case where the arbitration agreement was governed by English law, the presumed intention being that the courts of England and Wales would have exclusive supervisory jurisdiction;

ii) the present case can be distinguished because the governing law of the PPAs (and of the arbitration agreement in section 18.3) is the law of Pakistan, so that the provisions as to the choice of seat, and the intended effect of such a choice, must be construed as a matter of the law of Pakistan;

iii) the law of Pakistan, as expounded in the evidence of Mr Justice Shah (retired), is that a contract between Pakistani parties governed by the law of Pakistan cannot exclude the supervisory jurisdiction of the Pakistan courts.

Mr Justice Shah refers in particular to s. 28 of the Contract Act and *Rupali Polyester v Bunni* (1994) 46 APLD 525; and

iv) it follows that the choice of London as the seat of the Arbitration cannot be construed, as a matter of the applicable law of Pakistan, as giving rise to presumed intention that the court of England and Wales have exclusive supervisory jurisdiction: the courts of Pakistan must have at least concurrent jurisdiction, rending it inappropriate to grant (or continue) an ant-suit injunction.

33. Mr Young's secondary argument was that, if the choice of a London seat cannot be construed as giving rise to concurrent jurisdiction of the Pakistan courts, that choice must be invalid as being contrary to the relevant policy of the governing law. The seat must therefore be Lahore, Pakistan.

The proper analysis of the determination of the seat of the Arbitration and its effect

(a) NTDC's contention that there is concurrent supervisory jurisdiction

34. In my judgment Mr Young's primary argument is based on a misunderstanding of the effect of the 1996 Act and of the reasoning both at first instance and in the Court of Appeal in *C v D.*

35. As Cooke J explained (§24), section 2(1) of the 1996 Act provides that, where the seat of an arbitration is in England and Wales, the provisions of Part 1 of the 1996 Act apply. By virtue of section 4(1) and Schedule 1, certain provisions in that Part are mandatory, including the provisions in sections 67 to 68 relating to challenging an award on the basis of jurisdiction or serious irregularity.

36. The seat therefore determines the "curial law" of the arbitration (which will be English law, and in particular the mandatory provisions of the 1996 Act, in the case of a seat in England or Wales). As Cooke J held at §42:

> "*.. it does not matter whether English law is or is not the governing law of the agreement to arbitrate. It is the curial law which governs the question of the validity of the award and challenges to it.*"

37. Numerous authorities, set out by Cooke J in §30-39, establish that the courts of this jurisdiction regard the choice of the seat of an arbitration (whether in England or Wales or elsewhere) as akin to an exclusive jurisdiction clause (§29).

38. The Court of Appeal in *C v D* approved Cooke J's reasoning. Contrary to Mr Young's submission, the Court of Appeal did not suggest that there was merely a presumption that the parties, by choosing London as the seat, intended that proceedings on the award should be only those permitted by English law. On the contrary, the Court of Appeal made it clear that such a result necessarily followed. Longmore LJ, in the passages from his judgment in *C v D* set out above, did not refer to a presumed intention, but to the conclusion that "*they must be taken to have so agreed*", "*a choice of set for the arbitration must be a choice of forum for remedies seeking to attack the award*" and "*their agreement on the seat and the*

"curial law" necessarily meant that any challenges to any award had to be only those permitted by that Act". It was on the basis of such definitive assertions that Longmore LJ approved, as a statement of law, the proposition that an agreement as to the seat of an arbitration is analogous to an exclusive jurisdiction clause in favour of the courts of the place designated as the seat of the arbitration.

39. Further, the Court of Appeal so held regardless of whether the defendant was right in its contention that New York law (which provides a right to challenge any award) was the governing law of the arbitration. Longmore LJ concluded at §20 that, even if that contention were correct:

> "*… it would not qualify as an "agreement to the contrary" in the 1996 Act. Still less would it entitle the defendant to mount a challenge to the award in a country other than the seat of the arbitration.*"

40. It is apparent that one of the reasons why Longmore LJ regarded a choice of seat as necessarily giving rise to exclusive supervisory jurisdiction was that the alternative would be the highly unsatisfactory situation in which more than one jurisdiction could entertain challenges to an award. The defendants were "reduced" to putting forward that absurd solution in *C v D*: Mr Young was similarly constrained once he accepted for the purposes of his primary argument that the seat of the arbitration was London.

41. I therefore reject NTDC's contention that, even if the seat of the Arbitration is England, the courts of Pakistan have concurrent supervisory jurisdiction.

(b) <u>NTDC's alternative contention that the seat is Lahore, Pakistan</u>

42. Section 3 of the 1996 Act provides:

> "*In this Part "the seat of the arbitration" means the juridical seat of the arbitration designated -"*
>
> *(a) by the parties to the arbitration agreement, or*
>
> *(b) by any arbitral or other institution or person vested by the parties with powers in that regard, or*
>
> *(c) by the arbitral tribunal if so authorised by the parties,*
>
> *or determined, in the absence of any such designation, having regard to the parties' agreement and all the relevant circumstances.*"

43. On the face of the matter, the seat has indeed been designated by one or more of the above routes, each of those designations being London.

44. The difficulty facing NTDC is that, even if it has an argument that the seat should not have been so designated or that such designation was invalid (and any such

argument is hotly disputed by the IPPs), it has not mounted such argument by way of a timely challenge to the relevant decisions and awards.

45. Mr Young contends that NTDC should not be prevented from challenging the validity of the choice of seat because it was not open to NTDC to mount such an application in this jurisdiction without implicitly accepting that the seat of the Arbitration was in England and Wales, that being the basis on which Part 1 of the 1996 Act applies, including the provisions entitling a party to challenge an award or object to the jurisdiction of the arbitrator.

46. I do not accept that contention. Many challenges to an arbitral award are based on an assertion which, if upheld, would entail that there was no seat, nor, indeed, any valid arbitration. Indeed, the 1996 Act provides (in section 30) for an arbitral tribunal to rule on its own substantive jurisdiction, including whether there is a valid arbitration agreement and whether the tribunal is properly constituted. An application challenging jurisdiction or the seat plainly does not amount to an acceptance that there is jurisdiction nor that there has been a valid designation or determination of the seat.

47. It follows that NTDC must be treated as bound by the decision of the LCIA Court as to the seat of the Arbitration, and by the further rulings of the Arbitrator in that regard, none of which has been challenged. There is no suggestion that such determinations are illegal or contrary to public policy as a matter of English law, nor that there is any other legitimate basis on which they should be disregarded by this court.

48. I conclude that NTDC cannot resist the present claim on the grounds that the seat of the Arbitration was not London.

Conclusion

49. The IPPs are entitled to a final anti-suit injunction, continuing the interim injunction granted by Males J, on the entirely straightforward basis that the seat of the Arbitration is London. NTDC is to be restrained on a permanent basis from challenging the Partial Final Award in proceedings in Lahore, Pakistan, or anywhere other than England and Wales.